

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
) CRIMINAL NO. 05-10154-MLW
 v.)
)
 JOHN J. DIAMONT, JR.,)
 Defendant)

GOVERNMENT'S MOTION TO INSPECT AND COPY DOCUMENTS
OBTAINED PURSUANT TO SUBPOENAS RETURNABLE PRIOR TO TRIAL

Now comes the United States, pursuant to the suggestion of the Magistrate Judge, and moves the Court for an Order directing the defendant to make available to the United States, for inspection and copying, the documents the defendant has received pursuant to Fed. R. Crim. P. 17(c) subpoenas returnable prior to trial, and states:

1. The Defendant filed a Motion for Pretrial Subpoenas, pursuant to Fed. R. Crim. P. 17(c), seeking to issue certain subpoenas duces tecum, with a return date of October 31, 2005, and requesting that he be allowed to keep the documents received in response to these subpoenas confidential, and not disclose them to the United States, unless he decided to use one or more of the documents as an exhibit in his case-in-chief. (Dkt. No. 13.)

2. The United States filed an opposition to Defendant's Motion for Pretrial Subpoenas, in which it argued, among other things, that any documents produced in response to such subpoenas should be equally available to both sides. (Dkt. No. 19, pp. 11-13.)

3. On November 22, 2005 Magistrate Judge Dein filed a Memorandum of Decision and Order, granting in part and denying in part, Defendant's Motion for Pretrial Subpoenas. (Dkt. No. 34.) The United States has seen only a redacted version of that Memorandum of Decision and Order, which denied the Government's request that it be permitted to inspect the documents obtained pursuant to subpoenas returnable prior to trial, but provided "the Government may seek a different pretrial production schedule from the District Judge." (Dkt. No. 33, p.8, n.3.)

4. For the reasons set forth in our Memorandum in Support of this motion, the United States requests the Court to order the defendant to make available for inspection and copying by the United States all of the documents obtained pursuant to subpoenas duces tecum returnable prior to trial.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By:

/s/ Peter A. Mullin
PETER A. MULLIN
Assistant U.S. Attorney

Dated: April 21, 2006

REQUEST FOR ORAL ARGUMENT

The United States requests oral argument on this motion.

Local Rule 7.1 Certification

I, Peter A. Mullin, Assistant U.S. Attorney, hereby certify that I have conferred with counsel for the defendant and have attempted in good faith to narrow or resolve the issue presented in this motion.

/s/ Peter A. Mullin
PETER A. MULLIN
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I, Peter A. Mullin, Assistant U.S. Attorney, hereby certify that I have caused a copy of the foregoing document to be served on counsel of record by electronic filing this 21st day of April, 2006.

/s/ Peter A. Mullin
PETER A. MULLIN
Assistant U.S. Attorney